

October 23, 2002 (3:00AM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

NEPC

NATIONAL ENVIRONMENTAL PROTECTION CENTER

Monday, October 14, 2002

Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Attention: Rulemakings and Adjudications Staff

RE: DOCKET NO. 50-528, NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO
FACILITY OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION
DETERMINATION, AND OPPORTUNITY FOR A HEARING

Dear Secretary:

The National Environmental Protection Center ("NEPC") by and through its undersigned Executive Director (hereinafter "NEPC" or "Petitioners") hereby submit their Request for Hearing and Petition for Leave to Intervene in the above styled matter in accordance with 10 CFR 2.714. This matter is currently before the U.S. Nuclear Regulatory Commission ("NRC").

In accordance with 10 CFR 2.714(d)(1)(i), Petitions assert that:

NEPC is a nonprofit educational organization advocating the enforcement of environmental laws and regulations under the U.S. Environmental Protection Agency ("EPA"), the enforcement of nuclear safety under the U.S. Nuclear Regulatory Commission ("NRC"), and the enforcement of "whistleblower" employee protection provisions promulgated under 29 C.F.R. Part 24 and implemented under the Clean Air Act ("CAA"), 42 U.S.C. 7622 (1988); the Toxic Substances Control Act ("TSCA"), 15 U.S.C. 2622 (1988); the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. 300j-9(i) (1988); the Safe Drinking Water Act ("SWDA"), 42 U.S.C. 6971 (1988); the Solid Waste Disposal Act ("SWDA"), 42 U.S.C. 6971 (1988); and the Energy Reorganization Act ("ERA"), 42 U.S.C. 5851 (1974) as amended. In general, these provisions prohibit employers from retaliating against employees who "blow the whistle" or otherwise engage in certain actions in furtherance of the enforcement of environmental statutes.

In accordance with 10 CFR 2.714(d)(1)(ii), Petitions assert that:

Petitioners maintain business offices within an approximate 10-mile radius of the licensee' Palo Verde Nuclear Generating Stations ("PVNGS"); and therefore live and work within the NRC's requisite "Zone of Interest" to PVNGS.

NATIONAL ENVIRONMENTAL PROTECTION CENTER

In accordance with 10 CFR 2.714(1)(iii), Petitions assert that:

Petitioners have real property and interests which would be adversely affected should the proposed licensing amendment result in or cause a release of radioactive particles or substances from the PVNGS into the environment. Moreover, as stated above, Petitioners live and work within the NRC's requisite "Zone of Interest" to PVNGS and any release of radioactive particles or substances from the PVNGS into the environment could cause physical harm to Petitioners.

Petitioners intend to challenge the licensee' request to NRC for issuance of an amendment to Facility Operating License No. NPF-41, issued to APS for operation of the PVNGS Unit 1, located in Maricopa County Arizona. Specifically, the proposed amendment would revise item a.10, definition of steam generator (SG) tube inspection, in Section 5.5.9.4, "Acceptance Criteria," of Technical Specification (TS) 5.59, "Steam Generator (SG) Tube Surveillance Program."

Petitioners contend that the licensee' analysis and the NRC's review of the licensee' analysis of the proposed amendment does not appear to meet the standards of 10 CFR 50.92(c); and therefore the licensee' proposed amendment requires a finding of "significant hazards consideration" by NRC to ensure public safety and health and the protection of the environment.

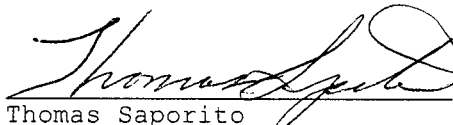
Petitioners assert here that they were not provided a 30-day notice by NRC of the licensee' proposed license amendment request, nor were Petitioners able to obtain pertinent licensee documentation considered by NRC such as:

1. The APS September 26, 2002 licensee application requesting amendment to the licensee' Technical Specifications at 5.5.9, "Steam Generator (SG) Tube Surveillance Program"; and
2. The Westinghouse report "WCAP-15947, NDE Inspection Strategy for the Tubesheet Region in PVNGS Unit 1, Revision 0".

Accordingly, in the furtherance of public safety and health and the protection of the environment, Petitioners request that the Atomic Safety and Licensing Board ("ASLB") issue an ORDER of INJUNCTION prohibiting NRC from considering or finding of "no significant hazards consideration" until any public hearing convened by the ASLB is concluded and proper determinations and adjudications are made.

WHEREFORE, having complied with the requirements of 10 CFR 2.714, Petitioners request that the Secretary convene a public hearing on this matter and provide Petitioners leave to intervene in that proceeding.

Respectfully submitted,



Thomas Saporito
Executive Director, NEPC

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CERTIFICATE OF SERVICE

This certifies that a copy of the foregoing was provided to the individuals identified below at their last know address by U.S. Mail on this 14th day of October 2002.

Office of General Counsel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

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By:


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